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# Republican Policy Committee

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## Anticipating the White House Conference on Small Business

### **Will the President Tell Small Business Owners What They Want to Hear?**

The White House Conference on Small Business begins on Monday, June 12, and will last through Wednesday. With over 1,800 elected delegates attending from all regions of the country, it is expected to be one of the most visible efforts in Washington by small businesses to communicate their message since the last Conference held in 1986. When viewing the Administration's track record with regard to issues most critical to the small business community, one wonders what it is the President will have to say to this conference.

### **Clinton Administration Has Been Hostile to Small Business**

The following list contains specific examples of regulatory actions the Clinton Administration has taken, turning a deaf ear to the call from small business for regulatory relief and flexibility.

- **OSHA Fall Protection Regulations** — These regulations went into effect on February 6, 1995, and impose burdensome workplace regulations whenever employees are working six feet off the ground. One roofing company estimates these new regulations will drive up the cost of every new roof by \$500.
- **OSHA Ergonomics** — OSHA is currently working on a rule that would require employers to take a number of actions to address repetitive motion injuries. Employers would be required not only to have written plans to prevent these injuries, but also to redesign work areas, to slow assembly lines and potentially to pay for medical bills. The rule is estimated to cost \$21 billion to implement.
- **Indoor Air Quality Regulations** — OSHA is preparing to issue new regulations to require businesses to implement indoor air quality programs and ventilation plans. The rule is estimated to cost over \$8 billion a year.

- **Chemical Use Inventory Rule** — The EPA has proposed regulations to expand reporting requirements on chemicals used in the manufacturing process. These regulations are likely to drive more companies overseas. In addition, the EPA has proposed making information reported to it available to trial lawyers who will use the information to sue companies for phantom risks.
- **Comprehensive Occupational Safety and Health Programs** — OSHA is scheduled to issue a notice of proposed rulemaking that would require employers to develop and implement an occupational safety and health program in their workplace. This program likely would require written safety and health programs, the designating of safety officials, and worker safety training. It is expected this rule will cover employers with over 10 employees, and may cover all employers. According to OSHA, "costs are likely to exceed \$1 billion annually". The Employment Policy Foundation estimated that similar programs, which were required in the Kennedy-Ford OSHA bill in 1993, would cost over \$21 billion annually and safety and health training, \$6.3 billion annually.
- **FIFRA Worker Protections Standard** — EPA issued a revised worker protection standard under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) in 1992 and EPA Administrator Carol Browner signed an order implementing enforcement of the rule on January 3, 1995. The rule imposes significant responsibilities on farmers in areas of safety, training, decontamination, information posting, emergency assistance, and worker reentry into fields after pesticides are applied. According to the National Association of State Departments of Agriculture, "As proposed, the regulation cannot feasibly be implemented by farmers and cannot effectively be regulated by state regulators — not to mention it represents a huge unfunded mandate." Although cost estimates are not available, the U.S. Department of Agriculture commented in a December 6, 1994 letter that the changes made to the worker protection standard in the draft proposed rule would impose a "significant and substantial" burden on employers and workers "considerably in excess of that estimated by EPA in the draft proposed rule and its Regulatory Impact Statement."

As well as many regulatory items the Clinton Administration has promulgated, the President has proposed many legislative items that are detrimental to small business. Last year's health care debacle, which was opposed by most small businesses, would have imposed yet another expensive mandate on many small businesses which simply could not afford the costs. Many small businesses would have been forced to lay off workers or even be forced out of business.

The Clinton tax increases in the Omnibus Budget Reconciliation Act of 1993 imposed tremendous financial burdens on small businesses and dampened the general economic recovery that had already begun during the final months of the Bush Administration. The Clinton Administration's regressive energy tax proposal was particularly harmful to small businesses.

President Clinton and his advisors have been calling for an increase in the minimum wage. Again this would force higher-than market wages on small businesses and put pressure to raise wages among higher salaried workers. To pay for the increased labor costs being

imposed on them, employers would be forced to cut jobs, or to attempt to raise the price of their goods and services. This is a death knell to many small business endeavors and to the creation of new jobs.

Finally, the President and Democrats continue to favor the Davis-Bacon Act, which forces construction companies to pay the prevailing union wage rate when working on federal construction projects. This law prevents many small businesses from competitively bidding for federal projects, in addition to its onerous burden on all taxpayers. A bill on the Senate calendar, sponsored by Senator Kassebaum, chairman of the Senate Labor and Human Resources Committee, would repeal the Davis-Bacon provisions.

## **Supporting Small Business: Legislative Actions**

The Majority party in the Senate has long championed the cause of small business, which is the backbone of the U.S. economy. Small businesses generate almost fifty percent of the gross domestic product, employ fifty percent of the workforce, and account for most of the growth in the economy. While many large U.S. corporations have been "downsizing," small businesses have been hiring workers: for every one person laid off by large business during the past five years, small businesses have hired five.

Among the top items for this session of Congress are initiatives to offer some relief to small businesses from the burdens imposed by the federal government.

The Congress has already completed action on the Unfunded Mandates Act (which, among other things, requires agencies to conduct cost benefit studies before proposing new regulations), and the Paperwork Reduction Act (setting a target of 10 percent reduction in annual paperwork required by agencies on the private sector and state and local governments). In addition, the House has passed a moratorium on major regulatory actions pending passage of a comprehensive regulatory reform bill, and the Senate has passed a 45-day congressional review to provide a procedure for considering a resolution of disapproval for all final agency rules. The resolution of disapproval, once passed by both Houses and presented to the president, would declare a final rule null and void.

However, the Majority party believes comprehensive changes to the attention of agencies to conducting proper risk assessments and cost — benefit analysis — with judicial review to ensure compliance — is the most critical legislation under consideration this Congress for the reduction of regulatory burdens on small business and the economy generally. The House has passed H.R. 9 on March 3, 1995, which contains H.R. 1022 (risk assessment) and H.R. 926 (cost-benefit analysis). The comprehensive Senate regulatory reform package, S. 343, offered by Senator Dole, and reported by both the Judiciary and Governmental Affairs Committees, is scheduled for Senate floor action the week of June 19. These regulatory reform bills will require agencies to conduct more common sense and unbiased assessment of health and safety risks before proposing requirements to mitigate those risks, and then focus on those mitigation approaches that will bring the greatest net benefits compared to their costs. Among the provisions of the Senate comprehensive bill is Senator Bond's amendment to the Regulatory

Flexibility Act (which requires agencies to consider the special impacts of rules on small business) to permit judicial review to enforce agency compliance.

Additionally, the Majority party is concerned that the federal estate tax code has been making it difficult for small businessmen and businesswomen to pass their businesses on to their children. Changes are needed in the estate tax laws so that families are not required to sell the family-owned business or farm in order to pay federal estate taxes. Changes in the tax code also should be implemented to help create investment for small business and enhance job creation, including reducing the capital gains tax and indexing it to inflation, and increasing the annual expense deduction for small businesses.

Also on the agenda is providing self-employed business owners the same 100-percent deductibility of health insurance costs that are granted to large businesses. Last year, during the debate on health care, Senators Dole and Packwood offered as an amendment a provision from their bill, S. 2374, that would phase in 100-percent deductibility for health insurance costs for the self-employed. Earlier this year, the Senate passed H.R. 831 that would allow 1994 tax filers to deduct 25 percent of their health insurance premium costs, and 30 percent of these costs in subsequent years. Small business owners also should be allowed to band together to purchase health insurance to provide them with the same purchasing benefits enjoyed by large corporations. Senators Cochran, D'Amato, and Domenici have introduced legislation in this area.

The Majority party in the Senate also has been in favor of reforms in the legal system, and finally this year both the Senate and the House have passed legislation (H.R. 956) to curtail lawsuit abuse. These reforms would help lower the cost of liability insurance for small businesses and allow them to use those funds for more productive purposes.

Other legislation has been offered, or soon will be offered, to help the small business community. S. 895, the Small Business Lending Enhancement Act, offered by Senator Bond, chairman of the Senate Committee on Small Business, would expand the availability of loans guaranteed under the Small Business Administration's 7(a) program from \$7.8 billion a year to \$11 billion a year. The 7(a) program provides loan guarantees to eligible small businesses. Currently, 85 percent of the value of the loan is guaranteed by the government, however, S. 895 reduces this to 80 percent in order to pay for the program's increase.

Another bill soon to be offered by Senator Bond is on regulatory fairness and enforcement oversight. This bill mounts an attack on abusive enforcement of government regulations, including prohibiting agencies from imposing and collecting fines from small businesses if the regulation is ambiguous or if no compliance guide has been prepared. And, the bill will help small businesses when they are forced to defend themselves in court for unfair fines and penalties imposed by the federal government. Small businesses will be allowed to recover their legal costs when government regulators insist on fines that are not upheld in the courts.

Senator Domenici soon will offer a bill that will require the EPA and OSHA to create a panel within each agency to review proposed regulation or rules that will have an annual impact on state, local, and tribal governments and the private sector in the aggregate of \$40 million or

more. The agency imposing the regulation must chair a regulatory review panel that must include up to three representatives of small business; the panel must consider regulations during initial formulation and before final rulemaking; and it conducts peer review surveys on existing regulations to determine the impact of small business.

Senator Shelby's bill, S. 585, known as the Regulatory Bill of Rights, would allow for a no-fault compliance audit for small businesses from enforcement agencies in order to correct potential regulatory violations before an enforcement action. The bill would also require federal agencies to provide small businesses with a compliance assistance program, and allow small businesses to be free from additional inspections for six months after compliance with a regulation. The bill would factor the business's ability to pay into the application of fines and penalties for regulatory violations.

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